

### **REMARKS**

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, Claims 1, 2, 4, 8, 9, 15-24 and 29-38 will remain pending in the application. Claims 1, 4, 9, 15, 18, 24, 30-32, and 36 have been amended. Claims 3, 5-7, 10-14, and 25-28 have been canceled. Original Figures 1-3 are replaced with replacement Figures 1-3. New Figures 13A and 13B are added. The specification has been amended to provide description of new Figures 13A and 13B. These changes do not introduce new matter, and their entry is respectfully requested.

In the Office Action of August 9, 2007, the Examiner set forth a number of grounds for rejection. These grounds are addressed individually and in detail below.

#### **Claim Objections**

Claims 5 and 7 are objected to for lack of antecedent basis for the term “insert.” Claims 5 and 7 have been canceled.

#### **Objection to Drawings**

Figures 1-3 are objected to for not being designated as “Prior Art.” Figures 1-3 have been replaced with new drawings marked as “Prior Art.” The Office Action also notes that the façade or insert comprising a secondary cage structure with pivoting walls, as called for in original Claim 7, must be shown in the Figures. Applicant has added new Figures 13A and 13B to show a façade and a insert comprising a secondary cage structure with pivoting walls. The new figures are supported at least by the specification on pages 3-6 and original Claim 7.

**Claim Rejections Under 35 U.S.C. §102 (b)**

Claims 1-6 and 8-16 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,636,938 to Ragazzo (hereinafter “Ragazzo”) for reasons stated on pages 4-5 of the Office Action. Claim 9 stands rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Application Publication No. 2003/0145526 to Rothfuss (hereinafter “Rothfuss”) for reasons stated on page 6 of the Office Action. Claims 1, 3, and 9 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,647,695 to Hilfiker et al. (hereinafter “Hilfiker”) for reasons stated on page 6 of the Office Action. Claims 1, 3, 6, 7, and 9 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,472,297 to Heselden (hereinafter “Heselden”) for reasons stated on page 7 of the Office Action. Applicant respectfully traverses the rejection.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. Verdegaal Bros. v. Union Oil Co. Of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). There must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. Scripps Clinic Research & Foundation v. Genentech Inc., 18 USPQ2d 1001, 1010 (Fed. Cir. 1991).

In this case, independent Claim 1, as amended, is directed to a multi-compartmental cage structure, comprising pivotally connected side and end walls and at least one pivotally connected partition wall, the at least one partition wall separating individual compartments of the multi-compartmental cage structure, the cage structure being provided on at least one side or end wall

with a façade or an insert spaced from said side or end wall to an extent sufficient to accommodate a surface effect material between the at least one side or end wall and the façade or the insert, wherein the façade or insert comprises a secondary cage structure in the form of a multi-compartmental gabion comprising pivotally connected side and end walls and at least one pivotally connected partition wall, the at least one partition wall separating individual compartments of the gabion.

Independent Claim 9, as amended, is directed to an apparatus for creating an outer surface effect of a structure wherein at least one wall of the structure defines a support panel, the apparatus comprising means defining a cover-panel which overlies the support panel but is spaced therefrom, so that a quantity of surface effect material can be positioned between the support panel and the cover-panel, and wherein the means comprises a multi-compartmental cage comprising pivotally connected side and end walls and at least one pivotally connected partition wall, the at least one partition wall separating individual compartments of the multi-compartmental cage structure.

In contrast, Ragazzo generally describes an improved gabion system comprising at least one separator wall to partition the interior of the gabion wire mesh basket to form a chamber having an outer face and an insert or facing to fill the chamber. The facing provides support to the outer face and provides an aesthetically improved appearance to the outer face. Ragazzo, however, does not mention a façade or insert that “comprises a secondary cage structure in the form of a multi-compartmental gabion comprising pivotally connected side and end walls and at least one pivotally connected partition wall, the at least one partition wall separating individual compartments of the gabion,” as recited in Claim 1, or means that defines a cover panel and “comprises a multi-compartmental cage comprising pivotally connected side and end walls and

at least one pivotally connected partition wall, the at least one partition wall separating individual compartments of the multi-compartmental cage structure,” as recited in Claim 9. Accordingly, Ragazzo does not anticipate Claims 1 and 9 because it does not contain all of the elements recited in these claims. Therefore, withdrawal of the 35 U.S.C. 102(b) rejection is respectfully requested.

Rothfuss generally describes a wire mesh mat for gabion baskets for securing slopes. Rothfuss does not mention a multi-compartmental cage comprising pivotally connected side and end walls and at least one pivotally connected partition wall, the at least one partition wall separating individual compartments of the multi-compartmental cage structure. Rothfuss does not anticipate Claim 1 because it does not contain all of the elements recited in Claim 9. Therefore, withdrawal of the 35 U.S.C. 102(b) rejection is respectfully requested.

Hilfiker generally describes a soil filled wall that accommodates the growing of plant life. The wall comprises welded wire structures that contain soil. Hilfiker, however, fail to disclose a façade or insert that “comprises a secondary cage structure in the form of a multi-compartmental gabion comprising pivotally connected side and end walls and at least one pivotally connected partition wall, the at least one partition wall separating individual compartments of the gabion,” as recited in Claim 1, or means that defines a cover panel and “comprises a multi-compartmental cage comprising pivotally connected side and end walls and at least one pivotally connected partition wall, the at least one partition wall separating individual compartments of the multi-compartmental cage structure,” as recited in Claim 9. Accordingly, Hilfiker does not anticipate Claims 1 and 9 because it does not contain all of the elements recited in these claims. Therefore, withdrawal of the 35 U.S.C. 102(b) rejection is respectfully requested.

Heselden generally describes wire mesh cage structures. However, Heselden does not mention a multi-compartmental cage structure having a façade or an insert that “comprises a secondary cage structure in the form of a multi-compartmental gabion comprising pivotally connected side and end walls and at least one pivotally connected partition wall, the at least one partition wall separating individual compartments of the gabion,” as recited in Claims 1 and 9. Accordingly, Heselden does not anticipate Claims 1 and 9 because it does not contain all of the elements recited in these claims. Therefore, withdrawal of the 35 U.S.C. 102(b) rejection is respectfully requested.

In view of foregoing Applicant respectfully submits that Ragazzo, Rothfuss, Hilfiker and Heselden do not anticipate Claims 1 and 9 because they fail to teach every element of the claimed invention. Applicant further submits that Claims 2, 4, 8, 15-24, and 29-38 are patentable over Ragazzo, Rothfuss, Hilfiker and Heselden because they depend from one of Claims 1 and 9, and recite additional patentable subject matter. Withdrawal of rejection to Claims 1, 2, 4, 8, 9, 15-24 and 29-38 is respectfully requested. Claims 3, 5-7, 10-14 and 25-28 have been canceled. Rejections to these claims are now moot.

Thus, the grounds for this rejection have been obviated and withdrawal of the 35 U.S.C. 102(b) rejection is respectfully requested.

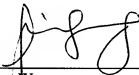
### CONCLUSION

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to contact Ping Wang, M.D. (Reg. No. 48,328) at the telephone number listed below.

Respectfully submitted,

DLA PIPER US LLP

  
\_\_\_\_\_  
Ping Wang  
Registration No. 48,328

500 8th Street, NW  
Washington, DC 20004-2131  
Telephone No. 202.799.4000  
Facsimile No. 202.799.5000